

New Jersey Conference and Appeals Procedures: Hearing Cancellation Policy

If you disagree with a Division of Taxation decision regarding your liability for taxes, you can usually contest that decision by filing a protest and request for a hearing. While a majority of protests are resolved either by coordinating a resolution with the initiating office or by discussion with a Conference and Appeals Branch (“CAB”) personnel, some may proceed through a succession of steps to a hearing before a Conferee.

Some General Points To Keep In Mind

- If you have filed or you wish to file a protest and request for a hearing and you have procedural questions, you should contact the Conference and Appeals Branch at (609) 291-7854.
- While your protest is pending, interest continues to accrue on all unpaid amounts due. To stop the accrual of interest while your protest is under consideration, you may wish to pay all or part of the taxes due. You should certainly consider promptly paying any undisputed portions of your tax.
- While your protest is pending, security may be required. Typically this is required when the contested liability is \$10,000 or more and the Director has determined that there is a substantial risk of the taxpayer’s failure or inability to pay the liability, based on the compliance history and financial condition of the taxpayer.
- After receiving a timely protest and request for a hearing, CAB personnel will send you a letter confirming its receipt, and may ask you to provide evidence to support your position. They may also contact you later to examine additional information.
- Once your timely protest and request for a hearing has been perfected, your file will be moved forward for subsequent assignment to a Conferee and the scheduling of your hearing. The scheduled date is generally dependent upon the date the protest was received and the current outstanding backlog.
- Your hearing is an informal administrative conference scheduled and held by a Conferee. The scheduling and conduct of your conference constitutes the near final step in the administrative Conference and Appeals process.
- At your conference, the Conferee will consider your arguments and any oral or supplemental written evidence you present. You should be sure to present all of the facts and evidence supporting your protest so that the Conferee may fully consider the law and regulations as they apply to those facts as supported by the evidence provided.
- Shortly after the conference, the Conferee will prepare a Final Determination on behalf of the Director, Division of Taxation. The Final Determination will be mailed to you by certified mail. The letter will also provide you with information concerning your further appeal rights should you be in disagreement with the Conferee’s findings.

Hearing Cancellations Cost Everyone...

Hearing cancellations by taxpayers/representatives are becoming an ever-increasing problem, not just for the Division of Taxation, but for taxpayers as well. The Conference and Appeals Branch strives to schedule and conduct hearings in an effective and efficient manner. Hearing cancellations not only disrupt the CAB’s organizational flow resulting in a cost to the State in lost productive time, but also it directly costs the taxpayers in the Branch’s unscheduled/unassigned backlog additional interest each day their hearing date is delayed. Additionally, these cancellations may be costing the State additional interest on certain refund cases that could have been resolved sooner but for the fact that a Conferee had to prepare for a hearing only to have it cancelled at the last minute. Directly or indirectly, compliant taxpayers end up paying for taxpayers that employ delay tactics by canceling scheduled hearing dates.

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N.J.A.C. 18:1-1.8(e) – Hearings are scheduled whenever possible by telephone on a mutually acceptable date for the taxpayer and/or their representative and the conferee, who represents the Division. Cancellations are discouraged except in cases that make attendance unavoidable. In the event that a cancellation must be granted, the hearing will be rescheduled on the Conference and Appeals Branch’s soonest available date. A Final Determination based on facts documented in the file may be issued if the taxpayer fails to appear at a scheduled conference.

Hearing Scheduling/Rescheduling Policy

1. A hearing scheduled with a taxpayer and/or their representative should be “mutually” scheduled and agreed upon by all parties prior to the issuance of the scheduling letter. If the taxpayer/representative must cancel this mutually scheduled hearing date; the Conferee may grant the cancellation on their authority alone. Rather than use the regulatory authority or “power” to unilaterally schedule the second hearing, this second hearing date should also be mutually determined. Usually the rescheduled date should be within a week or two of the originally scheduled hearing date. However, dependent upon the circumstances surrounding the cancellation and length of delay requested, a Conferee *may* have to unilaterally schedule a hearing date, but it is generally preferred that a mutually agreed date be established.
2. If a taxpayer and/or their representative seek to cancel the second mutually scheduled hearing date; the Conferee must have their Supervisor’s approval.
3. If a taxpayer and/or their representative should seek to cancel yet the third mutually scheduled hearing date; the Conferee must have the Chief’s approval. The Chief will consider the recommendations of the Conferee and Supervisor in deciding whether or not to approve the cancellation.

Cancellation/Rescheduling Approved

- Taxpayer/representative is hereby advised that all cancellation requests must be submitted in writing within 5 business days of the cancelled hearing date. The letter must detail the reason for the cancellation of the scheduled hearing. Ideally this letter will also include reference to the mutually rescheduled hearing date.

Cancellation/Rescheduling Denied

- Taxpayer/representative is hereby advised that a Final Determination based upon facts documented in the file WILL be issued without further delay. In addition to conversations with the Conferee and possibly the Conferee’s Supervisor and/or Chief, the taxpayer and/or representative have been made aware of this potential result through the published regulations, *The Taxpayers’ Bill of Rights and The Conference and Appeals Branch* brochure and this policy insert. The brochure and insert are mailed with every initial letter sent in response to a filed protest.

While the above procedure is directed more toward “last minute” hearing cancellations, the same policy will apply to any hearing cancellation request.

<http://www.state.nj.us/treasury/taxation>

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